

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

RICHARD RAUCH,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 3:09-CV-0757-D
VS.	§	
	§	
GEO CORPORATION, et al.,	§	
	§	
Defendants.	§	

**ORDER**

I

After making an independent review of the pleadings, files, and records in this case, and the March 15, 2010 findings, conclusions, and recommendation of the magistrate judge, the court concludes that the findings and conclusions are correct. It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted.

Therefore, the December 21, 2009 motion of defendant The GEO Group, Inc. (“GEO Group”) to dismiss for insufficiency of service of process and for failure to serve within 120 days is granted. Plaintiff’s action against GEO Group is dismissed without prejudice. The December 23, 2009 motion of defendants Ananda Babbili (“Babbili”), Joshi Swbash (“Swbash”), and Guillermo Porras (“Porras”) to dismiss pursuant to Rules 12(b)(1), 12(b)(4), and 12(b)(5) is granted, and plaintiff’s actions against Babbili, Swbash, and Porras are dismissed without prejudice. A Fed. R. Civ. P. 54(b) final judgment dismissing these defendants is being filed contemporaneously with this order.


II

Pursuant to Rule 4(m), the court orders that plaintiff demonstrate good cause, in accordance with Rules 4(m) and 6(b), for failing to effect service on the remaining defendant, Dr. Lannette Linthicum ("Dr. Linthicum"). This must be done by filing a written response with the clerk of court no later than May 20, 2010. If the court does not receive the required response on or before the response date, or if the response received by the court fails to demonstrate good cause, the court will dismiss this action without prejudice as to Dr. Linthicum by authority of Rule 4(m).

In a proof of service filed on January 6, 2010, plaintiff purports to show service on Dr. Linthicum by means of the United States Postal Service by certified mail, apparently through a mailing sent by Karen A. Yager Rauch. But service by certified mail is not sufficient under federal or state law in the circumstances here (under state law, for example, service by certified mail must be made by the clerk of the court in which the case is pending). Therefore, plaintiff must demonstrate good cause to avoid dismissal of his action without prejudice as to Dr. Linthicum.

**SO ORDERED.**

April 29, 2010.

  
SIDNEY A. FITZWATER  
CHIEF JUDGE